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January 10, 2003

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BY HAND

Alva E. Smith, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W. - 6<sup>th</sup> Floor  
Washington, DC 20463

Re: MUR 5338

Dear Ms. Smith:

This letter constitutes the response of Democratic Senate Majority PAC and its treasurer to the Commission's November 29, 2002 letter, which informed them that the Commission considers them respondents in MUR 5338. Because the group and its treasurer are, in fact, not proper respondents, the Commission should immediately dismiss them from this matter.

Democratic Senate Majority PAC is not a proper respondent to this complaint for two reasons:

*First*, the complaint was not directed toward it and does not assert that it violated the law. Rather, the complaint was directed against eight named groups and individuals. Neither Democratic Senate Majority PAC nor anyone associated with it was among these groups or individuals.

We can only assume that the November 29 letter was a mistake. It appears that a Commission staff member reviewed the complaint and assumed that anyone mentioned was alleged to have violated the law. Yet the *only* reference to Democratic Senate Majority PAC comes on page 5 of the complaint. While the complaint characterizes the group pejoratively and inaccurately as a "vehicle for evasion of the BCRA," it makes no claim that the group has committed any violation.

*Second*, even if the complaint could be understood to assert that Democratic Senate Majority PAC had violated the law, it would fall short of the threshold to

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escape summary dismissal. In MUR 4960, the Commission set forth the conditions that a complaint must meet in order to avoid dismissal:

- It must set "forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA." Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas, Statement of Reasons, MUR 4960.
- It must be based upon either personal knowledge or some identified "source of information that reasonably gives rise to a belief in the truth of the allegations presented." *Id.*
- It cannot rely on "[u]nwarranted legal conclusions ... or mere speculation ..." *Id.*
- Its factual allegations must not be contradicted or refuted by compelling evidence provided in the response, or by information available from the Commission's public records database. *Id.*

This complaint meets none of these requirements with respect to this group. First, the only specific fact set forth in the complaint with respect to the group is that it shares an address with a law firm that represents, among many other clients, two of the Democratic national political party committees. *See* Compl. at 5. That fact alone presents no violation of the law.

Moreover, a full review of the facts available to the Commission compellingly refutes any suggestion that the group's address reflects a violation. The Perkins Coie LLP Political Law Group provides counseling and services in the field of campaign finance regulation to literally hundreds of active clients nationwide. The firm permits many of these clients to use its mailing address as one of the services provided. A review of the Commission's public records database would show that dozens of federally registered political committees, with a diverse range of interests, avail themselves of this service.

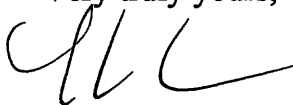
In short, there is no basis to involve Democratic Senate Majority PAC in this matter any further. The group has been made a respondent by error. To force any

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further responses would require still more errors, under the clear standard that the law and the Commission have set for complaints.

If you have any questions regarding this matter, please contact me at (202) 434-1654, or at the above-indicated address.

Very truly yours,



Robert F. Bauer  
Brian G. Svoboda  
Counsel to Democratic Senate Majority  
PAC